

**UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>IN RE:</b>	:	
<b>KEVIN ST CLAIR</b>	:	<b>BK. No. 19-17252 AMC</b>
<b>Debtor</b>	:	
	:	<b>Chapter No. 13</b>
<b>FREEDOM MORTGAGE CORPORATION</b>	:	
<b>Movant</b>	:	
<b>v.</b>	:	
<b>KEVIN ST CLAIR</b>	:	
<b>Respondent</b>	:	
	:	

**OBJECTION OF FREEDOM MORTGAGE CORPORATION TO CONFIRMATION OF  
THE DEBTOR'S CHAPTER 13 PLAN**

Movant, **FREEDOM MORTGAGE CORPORATION** (hereinafter referred to as "Movant"), by its attorneys Phelan Hallinan Diamond & Jones, LLP hereby objects to confirmation of the Debtor's Chapter 13 Plan as follows:

1. Movant is **FREEDOM MORTGAGE CORPORATION**.
2. Debtor, **KEVIN ST CLAIR**, is the owner of the property located at 6649 HADDINGTON LANE, PHILADELPHIA, PA 19151-3025.
3. On January 21, 2020, Movant filed Proof of Claim listing pre-petition arrears in the amount of \$10,357.96. A copy of the Proof of Claim is attached hereto as Exhibit "A" and made a part hereof.
4. Debtor's Plan does not provide for payment of arrears to Movant. Instead, Debtor's Plan provides for the Debtor's pursuit of a loan modification. A copy of the Debtor's Plan is attached hereto as Exhibit "B" and made a part hereof.
5. Debtor's Plan is speculative in nature in that the Plan contemplates curing the arrears through a loan modification that has neither been offered nor approved.
6. Debtor's Plan should be amended to fully fund and pay the arrears owed to Movant during the term of the Plan rather than rely on speculation that a loan modification will be offered and approved.
7. Based on the foregoing, confirmation of Debtor's proposed Plan should be denied.

WHEREFORE, **FREEDOM MORTGAGE CORPORATION** respectfully requests that this Honorable Court deny confirmation of the Debtor's Chapter 13 Plan.

Respectfully Submitted,  
/s/ Mario J. Hanyon, Esquire  
Mario J. Hanyon, Esq., Id. No.203993  
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# **Exhibit “B”**

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re: **Kevin St. Clair**

Case No.: \_\_\_\_\_  
Chapter 13

Debtor(s)

**Chapter 13 Plan**

Original

\_\_\_\_\_ Amended

Date: November 19, 2019

**THE DEBTOR HAS FILED FOR RELIEF UNDER  
CHAPTER 13 OF THE BANKRUPTCY CODE**

**YOUR RIGHTS WILL BE AFFECTED**

You should have received from the court a separate Notice of the Hearing on Confirmation of Plan, which contains the date of the confirmation hearing on the Plan proposed by the Debtor. This document is the actual Plan proposed by the Debtor to adjust debts. You should read these papers carefully and discuss them with your attorney. **ANYONE WHO WISHES TO OPPOSE ANY PROVISION OF THIS PLAN MUST FILE A WRITTEN OBJECTION** in accordance with Bankruptcy Rule 3015 and Local Rule 3015-4. **This Plan may be confirmed and become binding, unless a written objection is filed.**

**IN ORDER TO RECEIVE A DISTRIBUTION UNDER THE PLAN, YOU  
MUST FILE A PROOF OF CLAIM BY THE DEADLINE STATED IN THE  
NOTICE OF MEETING OF CREDITORS.**

**Part 1: Bankruptcy Rule 3015.1 Disclosures**

- Plan contains nonstandard or additional provisions – see Part 9
- Plan limits the amount of secured claim(s) based on value of collateral – see Part 4
- Plan avoids a security interest or lien – see Part 4 and/or Part 9

**Part 2: Plan Payment, Length and Distribution – PARTS 2(c) & 2(e) MUST BE COMPLETED IN EVERY CASE**

**§ 2(a)(1) Initial Plan:**

**Total Base Amount** to be paid to the Chapter 13 Trustee (“Trustee”) \$ **4,500.00**

Debtor shall pay the Trustee \$ **125.00** per month for **36** months; and

Debtor shall pay the Trustee \$ \_\_\_\_\_ per month for \_\_\_\_\_ months.

- Other changes in the scheduled plan payment are set forth in § 2(d)

**§ 2(a)(2) Amended Plan:**

**Total Base Amount** to be paid to the Chapter 13 Trustee (“Trustee”) \$ \_\_\_\_\_

The Plan payments by Debtor shall consists of the total amount previously paid (\$ \_\_\_\_\_) added to the new monthly Plan payments in the amount of \$ \_\_\_\_\_ beginning \_\_\_\_\_ (date) and continuing for \_\_\_\_\_ months.

- Other changes in the scheduled plan payment are set forth in § 2(d)

**§ 2(b)** Debtor shall make plan payments to the Trustee from the following sources in addition to future wages (Describe source, amount and date when funds are available, if known):

**§ 2(c) Alternative treatment of secured claims:**

**None.** If “None” is checked, the rest of § 2(c) need not be completed.

**Sale of real property**

Debtor Kevin St. Clair Case number \_\_\_\_\_

See § 7(c) below for detailed description

**Loan modification with respect to mortgage encumbering property:**

See § 4(f) below for detailed description

**§ 2(d) Other information that may be important relating to the payment and length of Plan:**

36 month plan

**§ 2(e) Estimated Distribution**

A. Total Priority Claims (Part 3)

1. Unpaid attorney's fees	\$ <u>2,624.00</u>
2. Unpaid attorney's cost	\$ <u>0.00</u>
3. Other priority claims (e.g., priority taxes)	\$ <u>0.00</u>
B. Total distribution to cure defaults (§ 4(b))	\$ <u>0.00</u>
C. Total distribution on secured claims (§§ 4(c) &(d))	\$ <u>1,363.00</u>
D. Total distribution on unsecured claims (Part 5)	\$ <u>63.00</u>
Subtotal	\$ <u>4,050.00</u>
E. Estimated Trustee's Commission	\$ <u>450.00</u>
F. Base Amount	\$ <u>4,500.00</u>

Part 3: Priority Claims (Including Administrative Expenses & Debtor's Counsel Fees)

**§ 3(a) Except as provided in § 3(b) below, all allowed priority claims will be paid in full unless the creditor agrees otherwise:**

Creditor	Type of Priority	Estimated Amount to be Paid
David M. Offen	Attorney Fee	\$ 2,624.00

**§ 3(b) Domestic Support obligations assigned or owed to a governmental unit and paid less than full amount.**

**None.** If "None" is checked, the rest of § 3(b) need not be completed or reproduced.

Part 4: Secured Claims

**§ 4(a) Secured claims not provided for by the Plan**

**None.** If "None" is checked, the rest of § 4(a) need not be completed.

Creditor	Secured Property
<input checked="" type="checkbox"/> If checked, debtor will pay the creditor(s) listed below directly in accordance with the contract terms or otherwise by agreement <b>Freedom Mortgage Corporation</b>	<b>6649 Haddington Lane Philadelphia, PA 19151 - Debtor is pursuing a loan modification. Please see Part 4(f).</b>

**§ 4(b) Curing Default and Maintaining Payments**

**None.** If "None" is checked, the rest of § 4(b) need not be completed or reproduced.

Debtor

Kevin St. Clair

Case number

**§ 4(c) Allowed Secured Claims to be paid in full: based on proof of claim or pre-confirmation determination of the amount, extent or validity of the claim**

**None.** If "None" is checked, the rest of § 4(c) need not be completed.

(1) Allowed secured claims listed below shall be paid in full and their liens retained until completion of payments under the plan.

(2) If necessary, a motion, objection and/or adversary proceeding, as appropriate, will be filed to determine the amount, extent or validity of the allowed secured claim and the court will make its determination prior to the confirmation hearing.

(3) Any amounts determined to be allowed unsecured claims will be treated either: (A) as a general unsecured claim under Part 5 of the Plan or (B) as a priority claim under Part 3, as determined by the court.

(4) In addition to payment of the allowed secured claim, "present value" interest pursuant to 11 U.S.C. § 1325(a) (5) (B) (ii) will be paid at the rate and in the amount listed below. *If the claimant included a different interest rate or amount for "present value" interest in its proof of claim or otherwise disputes the amount provided for "present value" interest, the claimant must file an objection to confirmation.*

(5) Upon completion of the Plan, payments made under this section satisfy the allowed secured claim and release the corresponding lien.

Name of Creditor	Description of Secured Property and Address, if real property	Allowed Secured Claim	Present Value Interest Rate	Dollar Amount of Present Value Interest	Total Amount to be Paid
<b>City of Philadelphia</b>	<b>water/sewer</b>	<b>\$163.00</b>			<b>\$163.00</b>
<b>FlexShopper</b>	<b>living room, sound bar, XBox, stereo</b>	<b>\$1,000.00</b>			<b>\$1,000.00</b>
<b>Tempoe</b>	<b>stove</b>	<b>\$200.00</b>			<b>\$200.00</b>

**§ 4(d) Allowed secured claims to be paid in full that are excluded from 11 U.S.C. § 506**

**None.** If "None" is checked, the rest of § 4(d) need not be completed.

**§ 4(e) Surrender**

**None.** If "None" is checked, the rest of § 4(e) need not be completed.

**§ 4(f) Loan Modification**

**None.** If "None" is checked, the rest of § 4(f) need not be completed.

(1) Debtor shall pursue a loan modification directly with **Freedom Mortgage Corporation** or its successor in interest or its current servicer ("Mortgage Lender"), in an effort to bring the loan current and resolve the secured arrearage claim.

(2) During the modification application process, Debtor shall make adequate protection payments directly to Mortgage Lender in the amount of **\$1,017.26** per month, which represents **regular monthly mortgage payment** (*describe basis of adequate protection payment*). Debtor shall remit the adequate protection payments directly to the Mortgage Lender.

(3) If the modification is not approved by **October 2022** (date), Debtor shall either (A) file an amended Plan to fully fund the secured pre-petition arrearage claim filed by the Mortgage Lender; or (B) Mortgage Lender may seek relief from the automatic stay with regard to the collateral and Debtor will not oppose it.

**Part 5:General Unsecured Claims**

**§ 5(a) Separately classified allowed unsecured non-priority claims**

**None.** If "None" is checked, the rest of § 5(a) need not be completed.

Debtor

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**§ 5(b) Timely filed unsecured non-priority claims**

(1) Liquidation Test (*check one box*)

All Debtor(s) property is claimed as exempt.

Debtor(s) has non-exempt property valued at \$\_\_\_\_\_ for purposes of § 1325(a)(4) and plan provides for distribution of \$\_\_\_\_\_ to allowed priority and unsecured general creditors.

(2) **Funding: § 5(b) claims to be paid as follows (*check one box*):**

Pro rata

100%

Other (Describe)

**Part 6: Executory Contracts & Unexpired Leases**

**None.** If "None" is checked, the rest of § 6 need not be completed or reproduced.

**Part 7: Other Provisions**

**§ 7(a) General Principles Applicable to The Plan**

(1) Vesting of Property of the Estate (*check one box*)

Upon confirmation

Upon discharge

(2) Subject to Bankruptcy Rule 3012, the amount of a creditor's claim listed in its proof of claim controls over any contrary amounts listed in Parts 3, 4 or 5 of the Plan.

(3) Post-petition contractual payments under § 1322(b)(5) and adequate protection payments under § 1326(a)(1)(B), (C) shall be disbursed to the creditors by the debtor directly. All other disbursements to creditors shall be made to the Trustee.

(4) If Debtor is successful in obtaining a recovery in personal injury or other litigation in which Debtor is the plaintiff, before the completion of plan payments, any such recovery in excess of any applicable exemption will be paid to the Trustee as a special Plan payment to the extent necessary to pay priority and general unsecured creditors, or as agreed by the Debtor or the Trustee and approved by the court..

**§ 7(b) Affirmative duties on holders of claims secured by a security interest in debtor's principal residence**

(1) Apply the payments received from the Trustee on the pre-petition arrearage, if any, only to such arrearage.

(2) Apply the post-petition monthly mortgage payments made by the Debtor to the post-petition mortgage obligations as provided for by the terms of the underlying mortgage note.

(3) Treat the pre-petition arrearage as contractually current upon confirmation for the Plan for the sole purpose of precluding the imposition of late payment charges or other default-related fees and services based on the pre-petition default or default(s). Late charges may be assessed on post-petition payments as provided by the terms of the mortgage and note.

(4) If a secured creditor with a security interest in the Debtor's property sent regular statements to the Debtor pre-petition, and the Debtor provides for payments of that claim directly to the creditor in the Plan, the holder of the claims shall resume sending customary monthly statements.

(5) If a secured creditor with a security interest in the Debtor's property provided the Debtor with coupon books for payments prior to the filing of the petition, upon request, the creditor shall forward post-petition coupon book(s) to the Debtor after this case has been filed.

**(6) Debtor waives any violation of stay claim arising from the sending of statements and coupon books as set forth above.**

Debtor

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Case number

**§ 7(c) Sale of Real Property**

**None.** If "None" is checked, the rest of § 7(c) need not be completed.

**Part 8: Order of Distribution**

**The order of distribution of Plan payments will be as follows:**

**Level 1:** Trustee Commissions\*

**Level 2:** Domestic Support Obligations

**Level 3:** Adequate Protection Payments

**Level 4:** Debtor's attorney's fees

**Level 5:** Priority claims, pro rata

**Level 6:** Secured claims, pro rata

**Level 7:** Specially classified unsecured claims

**Level 8:** General unsecured claims

**Level 9:** Untimely filed general unsecured non-priority claims to which debtor has not objected

**\*Percentage fees payable to the standing trustee will be paid at the rate fixed by the United States Trustee not to exceed ten (10) percent.**

**Part 9: Nonstandard or Additional Plan Provisions**

Under Bankruptcy Rule 3015.1(e), Plan provisions set forth below in Part 9 are effective only if the applicable box in Part 1 of this Plan is checked. Nonstandard or additional plan provisions placed elsewhere in the Plan are void.

**None.** If "None" is checked, the rest of § 9 need not be completed.

**Part 10: Signatures**

By signing below, attorney for Debtor(s) or unrepresented Debtor(s) certifies that this Plan contains no nonstandard or additional provisions other than those in Part 9 of the Plan.

Date: November 19, 2019

/s/ David M. Offen

**David M. Offen**

Attorney for Debtor(s)

If Debtor(s) are unrepresented, they must sign below.

Date: November 19, 2019

/s/ Kevin St. Clair

**Kevin St. Clair**

Debtor

Date: \_\_\_\_\_

Joint Debtor